IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8775 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAMBUSAR NAGAR PALIKA

Versus

DILIPKUMAR NAGINALAL PATEL

Appearance:

1. Special Civil Application No. 8775 of 2004

MR KIRTIDEV R DAVE for Petitioner

MR AR MAJMUDAR for Respondent

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 12/08/2004

ORAL JUDGEMENT

1. Rule. Mr.A.R.Majmudar, learned advocate waives service of notice of rule for the respondent.

2. At the request of learned advocates for both the

parties, this petition is taken up for final disposal, today.

3. In the present petition, the petitioner has challenged the award dated 01.03.2004 passed by the Labour Court, Bharuch in Reference (LCB) No.385 of 1994. By the said impugned award, the Labour Court was pleased to direct reinstatement of the respondent workman with full backwages. It is not in dispute that the award came to be passed exparte. It is true that the petitioner has alternative remedy, by way of filing an application before the Labour Court seeking setting aside the exparte order. But in the present case, since the respondent workman appeared on a caveat and, since then, both the parties came before this Court, it would not be appropriate in the facts of the present case to direct the petitioner to approach the Labour Court for seeking setting aside the exparte order.

4. I find that the petitioner is required to be given an opportunity to present its case and sufficient grounds are made out for setting aside the award. It has, however, been pointed out that on account of inaction on the part of the petitioner, the respondent would suffer if the award is set aside and, therefore, the same cannot be unconditional. In the facts and circumstances of the case, I quash and set aside the impugned award dated 01.03.2004 passed by the Labour Court, Bharuch in Reference (LCB) No.385 of 1994 and remand back the matter for its fresh consideration. This is, however, conditional on the petitioner paying an amount of Rs.10,000/-- to the respondent - workman. Since, the reference is pending since 1994, the Labour Court is requested to give priority consideration and ensure the same is disposed of as far as possible within a period of four months from the date of receipt of the copy of this order.

5. In view of the above directions, this petition stands disposed of. Rule is made absolute to the aforesaid extent.

[Akil Kureshi,J.]

(vijay)